

## Small Business Administration

## § 121.1008

### § 121.1006 When will a size protest be referred to an SBA Government Contracting Area Office?

(a) A contracting officer who receives a protest (other than from SBA) must forward the protest promptly to the SBA Government Contracting Area Office serving the area in which the headquarters of the offeror is located.

(b) A contracting officer's referral must contain the following information:

- (1) The protest and any accompanying materials;
- (2) A copy of the self-certification as to size;
- (3) Identification of the applicable size standard;
- (4) A copy of the solicitation;
- (5) Identification of the date of bid opening or notification provided to unsuccessful offerors;
- (6) The date on which the protest was received; and
- (7) A complete address and point of contact for the protested concern.

### § 121.1007 Must a protest of size status relate to a particular procurement and be specific?

(a) *Particular procurement.* A protest challenging the size of a concern which does not pertain to a particular procurement or sale will not be acted on by SBA.

(b) *A protest must include specific facts.* A protest must be sufficiently specific to provide reasonable notice as to the grounds upon which the protested concern's size is questioned. Some basis for the belief or allegation stated in the protest must be given. A protest merely alleging that the protested concern is not small or is affiliated with unnamed other concerns does not specify adequate grounds for the protest. No particular form is prescribed for a protest. Where materials supporting the protest are available, they should be submitted with the protest.

(c) *Non-specific protests will be dismissed.* Protests which do not contain sufficient specificity will be dismissed by SBA. The following are examples of allegation specificity:

*Example 1:* An allegation that concern X is large because it employs more than 500 employees (where 500 employees is the applica-

ble size standard) without setting forth a basis for the allegation is non-specific.

*Example 2:* An allegation that concern X is large because it exceeds the 500 employee size standard (where 500 employees is the applicable size standard) because a higher employment figure was published in publication Y is sufficiently specific.

*Example 3:* An allegation that concern X is affiliated with concern Y without setting forth any basis for the allegation is non-specific.

*Example 4:* An allegation that concern X is affiliated with concern Y because Mr. A is the majority shareholder in both concerns is sufficiently specific.

*Example 5:* An allegation that concern X has revenues in excess of \$5 million (where \$5 million is the applicable size standard) without setting forth a basis for the allegation is non-specific.

*Example 6:* An allegation that concern X exceeds the size standard (where the applicable size standard is \$5 million) because it received Government contracts in excess of \$5 million last year is sufficiently specific.

[61 FR 3286, Jan. 31, 1996, as amended at 69 FR 29206, May 21, 2004]

### § 121.1008 What occurs after SBA receives a size protest or request for a formal size determination?

(a) When SBA receives a size protest, the SBA Area Director for Government Contracting, or designee, will notify the contracting officer, the protested concern, and the protestor that the protest has been received. If the protest pertains to a requirement involving SBA's HUBZone program, the Area Director will also notify the D/HUB of the protest. If the protest pertains to a requirement set aside for WOSBs or EDWOSBs, the Area Director will also notify SBA's Director for Government Contracting of the protest. If the protest pertains to a requirement set aside for WOSBs or EDWOSBs, the Area Director will also notify SBA's Director for Government Contracting of the protest. If the protest pertains to a requirement involving SBA's SBIR Program, the Area Director will also notify the Division Chief, Office of Technology. If the protest involves the size status of a concern that SBA has certified as a small disadvantaged business (SDB) (see part 124, subpart B of this chapter) the Area Director will notify SBA's Associate Administrator for Business Development. If the protest pertains to a requirement that has